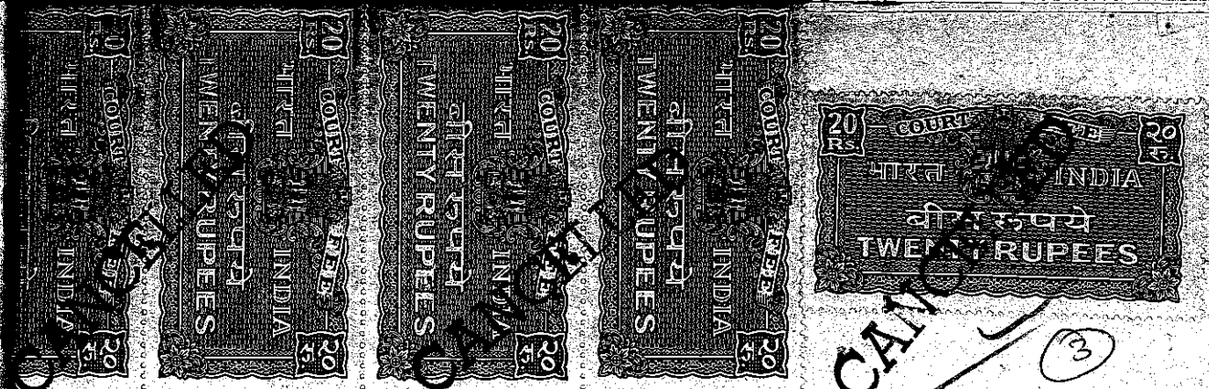

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION No. 1406/ 2001

Hemant Kumar Shrivastav : PETITIONER
Son of Late Shri Bhagwat Prasad Shrivastav
Assistant Grade-II,
Government, D.K. College
Baloda Bazar,
District : Raipur (Chhattisgarh)

VERSUS

1. State of Chhattisgarh : RESPONDENTS
   Through the Secretary
   Higher Education(Mantralaya)
   Science College Raipur

2. The Commissioner
   (Higher Education)
   D.K. Bhawan, Raipur

3. The Joint Director (Treasuries & Accounts)
   Nagar Khadi Chowk,
   Raipur

P. R. No. 1291/01
Presented by Shri R.S. Tiwari Advocate
dated 29.4.01

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

(71)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1406/01 **सन्** **200**

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench :

Hon'ble Shri A.K. Patnaik, CJ
& Hon. Shri Fakhruddin, J

16-03-2005

Heard Mr. R.S. Jaiswal, Sr. Advocate with Mr. Yogesh Pandey, counsel for the petitioner and Mr. V.V.S. Murthy, Dy. Advocate General for the State.

The petitioner was working in a private college as a Lower Division Clerk. The said private college was taken over by the Government and the petitioner was given the adhoc appointment in the said Government college by order dated 16-12-1982. The petitioner thereafter worked there continuously as Lower Division Clerk and was regularized in Government service w.e.f. 17-7-1981.

By an order dated 31-10-1984 of the Government, the petitioner was required to pass Hindi Typing Examination within a period of two years from the date 31-10-1984. The petitioner passed Hindi Typing Examination on 29-2-1985. After passing Hindi Typing Examination, the petitioner was drawing his pay and increments regularly. But on 15-1-1993 an entry was made in the service book of the petitioner for recovery of the increments drawn by the petitioner. Aggrieved by the said entry dated 15-1-1993 made in the service book of the petitioner, the petitioner filed Original Application No.581 of 1999 before the Madhya Pradesh State Administrative Tribunal constituted under the Administrative Tribunals Act, 1985.

By an order dated 24-5-2001, the Madhya Pradesh State Administrative Tribunal held that the said Original Application filed

(पीछे देखिये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

by the petitioner was barred by the provisions of Section 21(b) of the Administrative Tribunals Act, 1985. Aggrieved by the said order passed by the Madhya Pradesh State Administrative Tribunal in Original Application No.581 of 1999, the petitioner has filed the present petition under Articles 226/227 of the Constitution of India for appropriate relief.

After hearing the learned counsel for the parties, we find that no order as such has been passed by any authority and communicated to the petitioner for recovery of the increments already paid to the petitioner and only an entry had been made in the service book of the petitioner in this regard.

Section 19 of the Administrative Tribunals Act, 1985 provides that the person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance. Hence, until an order is passed by the competent authority of the Government for recovery of the increments already paid to the petitioner, the petitioner cannot be said to be aggrieved. Till the application is filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 before the Madhya Pradesh State Administrative Tribunal, no order for recovery having been passed by the competent authority of the Government, the petitioner cannot be said to have been aggrieved.

Yet the petitioner appears to have filed the application before the Madhya Pradesh State Administrative Tribunal apprehending recovery of the increments from the petitioner on the basis of the entries made in the service book of the petitioner. Since by any proposed recovery the petitioner will be adversely affected, the

(पीछे देखिये)

(73)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

authorities will have to issue a show cause notice to the petitioner before effecting any recovery of the increments already paid to the petitioner.

Since the Madhya Pradesh State Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 has been abolished during the pendency of this writ petition, we cannot possibly remand the matter back to the Madhya Pradesh State Administrative Tribunal for rehearing the Original Application.

We accordingly dispose of this petition in exercise of power under Articles 226/227 of the Constitution of India directing that before making any recovery of the increments already paid to the petitioner, the petitioner will be given an opportunity to show cause against the proposed recovery and the entry made in the service book of the petitioner will not be given effect.

With the aforesaid directions, this petition stands disposed of.

Sd/-
Chief Justice

Sd/-
Fakhruddin
Judge

H/-

(पीछे देखिये)